

### III. Remarks

Reconsideration of this application in light of the above amendments and the following remarks is requested.

Claims 1-26 were originally filed in the present application. Claims 18-25 have been withdrawn without prejudice or disclaimer as the result of an earlier restriction requirement. Of the remaining claims, claims 1-8, 10-17 and 26 have been rejected. Claim 9 has been allowed. Independent claims 1, 11, and 26 have been amended to bring them into condition for allowance. Claim 5 has been canceled.

#### A. Rejection of Claims 1-3, 6-8, and 10 under 35 U.S.C. § 102(e)

Claim 1 was previously rejected under 35 USC § 102(e) as being anticipated by U.S. Patent No. 6,859,523 to Jilk et al ("Jilk"). Applicant traverses the Examiner's rejection of claim 1 on the ground that the rejection fails to meet the requirement of MPEP § 2131. "A claim is anticipated only if each and every element as set forth in the claim is found." *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987); MPEP § 2131. Further, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989); MPEP § 2131.

Claim 1, as amended, recites "a prioritizing module for prioritizing the tasks, wherein the tasks are prioritized according to a status of the assigned tasks and a plurality of opportunity based retail factors." As the Examiner has acknowledged, Jilk teaches managing tasks of workers and therefore does not teach "a prioritizing module for prioritizing the tasks, wherein the tasks are prioritized according to a status of the assigned tasks and a plurality of opportunity based retail factors." Therefore, for this and other reasons, Jilk does not teach each and every element of claim 1 and Applicant respectfully requests withdrawal of the rejection of independent claim 1.

Claims 2, 3, 6-8, and 10 depend from and further limit claim 1 and are therefore allowable for at least the same reasons.

B. Rejection of Claims 1-4, 6-8, 10-17, and 26 under 35 U.S.C. § 103(a)

1. Claim 1

Claim 1 was rejected under 35 USC § 103(a) as being unpatentable over Jilk in view of U.S. Patent No. 4,852,001 to Tsushima et al ("Tsushima"). This rejection is respectfully traversed.

As the PTO recognizes in MPEP §2143, "[t]o establish a prima facie case of obviousness, . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations." Applicant respectfully submits that Jilk in view of Tsushima does not teach or suggest all of the claim limitations in independent claim 1.

Claim 1, as amended, recites "a prioritizing module for prioritizing the tasks, wherein the tasks are prioritized according to a status of the assigned tasks and a plurality of opportunity based retail factors." As the Examiner has acknowledged, Jilk teaches managing tasks of workers and Tsushima teaches job scheduling, and therefore neither teaches "a prioritizing module for prioritizing the tasks, wherein the tasks are prioritized according to a status of the assigned tasks and a plurality of opportunity based retail factors," as recited in amended claim 1. Therefore, the combination of Jilk and Tsushima does not teach or suggest all of the limitations of claim 1.

Applicant respectfully submits that claim 1 is in condition for allowance and the rejection should be withdrawn. As claims 2, 3, 6-8, and 10 depend from and further limit claim 1, they are therefore allowable for at least the same reasons.

2. Claim 11

Claim 11 was rejected under 35 USC § 103(a) as being unpatentable over Jilk in view of U.S. Patent No. 4,852,001 to Tsushima et al ("Tsushima"). This rejection is respectfully traversed.

As the PTO recognizes in MPEP §2143, "[t]o establish a prima facie case of obviousness, . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations." Applicant respectfully submits that Jilk in view of Tsushima does not teach or suggest all of the claim limitations in independent claim 11.

Claim 11, as amended, recites "determining a yield value for each task of the plurality of tasks wherein the yield value is determined using velocity of a retail location, number of new products for the retail location, weighted importance of the number of new products, number of non-scanned products, weighted importance of the number of non-scanned products, number of tasks to be performed at the retail location, weight importance of the tasks to be performed at the retail location, a value associated

with a length of time since a task was last performed at the retail location, weighted importance of the value associated with a length of time.”

As the Examiner has acknowledged, Jilk teaches managing tasks of workers and Tsushima teaches job scheduling, and therefore neither teaches “determining a yield value for each task of the plurality of tasks wherein the yield value is determined using velocity of a retail location, number of new products for the retail location, weighted importance of the number of new products, number of non-scanned products, weighted importance of the number of non-scanned products, number of tasks to be performed at the retail location, weight importance of the tasks to be performed at the retail location, a value associated with a length of time since a task was last performed at the retail location, weighted importance of the value associated with a length of time.” Thus, none of Jilk, Tsushima, and the combination of the two teaches “determining a yield value for each task of the plurality of tasks wherein the yield value is determined using velocity of a retail location, number of new products for the retail location, weighted importance of the number of new products, number of non-scanned products, weighted importance of the number of non-scanned products, number of tasks to be performed at the retail location, weight importance of the tasks to be performed at the retail location, a value associated with a length of time since a task was last performed at the retail location, weighted importance of the value associated with a length of time.”

Applicant respectfully submits that claim 11, as amended, is in condition for allowance and the rejection should be withdrawn. As claims 12-17 depend from and further limit claim 11, claims 12-17 are therefore allowable for at least the same reasons.

### 3. Claim 26

Claim 26 was rejected under 35 USC § 103(a) as being unpatentable over Jilk in view of U.S. Patent No. 4,852,001 to Tsushima et al (“Tsushima”). This rejection is respectfully traversed.

As the PTO recognizes in MPEP §2143, “[t]o establish a prima facie case of obviousness, . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations.” Applicant respectfully submits that Jilk in view of Tsushima does not teach or suggest all of the claim limitations in independent claim 26.

Claim 26, as amended, recites “determining a yield value for each of the plurality of tasks using opportunity based retail factors, which include velocity of a retail location, number of new products for the retail location, weighted importance of the number of new products, number of non-scanned products, weighted importance of the number of non-scanned products, number of tasks to be performed at the retail location, weight importance of the tasks to be performed at the retail location, a value associated

with a length of time since a task was last performed at the retail location, weighted importance of the value associated with a length of time,” as recited in claim 26.

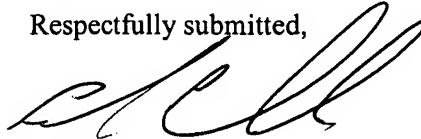
As the Examiner has acknowledged, Jilk teaches managing tasks of workers and Tsushima teaches job scheduling, and therefore neither teaches “determining a yield value for each of the plurality of tasks using opportunity based retail factors, which include velocity of a retail location, number of new products for the retail location, weighted importance of the number of new products, number of non-scanned products, weighted importance of the number of non-scanned products, number of tasks to be performed at the retail location, weight importance of the tasks to be performed at the retail location, a value associated with a length of time since a task was last performed at the retail location, weighted importance of the value associated with a length of time.” Thus, none of Jilk, Tsushima, and the combination of the two teaches “determining a yield value for each of the plurality of tasks using opportunity based retail factors, which include velocity of a retail location, number of new products for the retail location, weighted importance of the number of new products, number of non-scanned products, weighted importance of the number of non-scanned products, number of tasks to be performed at the retail location, weight importance of the tasks to be performed at the retail location, a value associated with a length of time since a task was last performed at the retail location, weighted importance of the value associated with a length of time.”

Applicant respectfully submits that claim 26, as amended, is in condition for allowance and the rejection should be withdrawn.

#### IV. Conclusion

It is believed that all matters set forth in the Office Action have been addressed. Favorable consideration and an early indication of the allowability of the claims are respectfully requested. Should the Examiner deem that an interview with Applicants' undersigned attorney would expedite consideration, the Examiner is invited to call the undersigned attorney at the telephone number indicated below.

Respectfully submitted,



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Dated: \_\_\_\_\_

9/26/06

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